

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In re )  
)  
Review of the Syndication and ) MM Docket No. 95-39  
Financial Interest Rules, )  
Sections 73.659-72-663 of the )  
Commission's Rules )  
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OPPOSITION TO MOTION FOR EXTENSION OF TIME

Capital Cities/ABC, Inc. ("ABC") and CBS Inc. ("CBS"), by their attorneys,  
hereby submit this opposition to the motion for extension of time in the above proceeding  
("Motion"), which was filed on May 15 by the Coalition to Preserve the Financial Interest  
and Syndication Rule (the "Coalition").<sup>1</sup>

The Coalition claims that the Commission "would be acting in an arbitrary and  
capricious manner"<sup>2</sup> by imposing such "a short filing deadline"<sup>3</sup> in this proceeding. This  
assertion is absurd. In fact, the "short deadline" is almost 60 days, and the Coalition has  
had almost two years to monitor the conduct of the networks in their ongoing business  
relationships with its members under the transitional regulatory regime. The June 1993

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<sup>1</sup> The Coalition does not identify its current constituents. In its most recent  
incarnation, it included among its members all of the major motion picture studios  
(except Fox), as well as an amalgam of independent stations and producers who  
believe themselves to be advantaged by the rules limiting the three original networks  
from adding to the competition in program production, acquisition and distribution.

<sup>2</sup> Motion at 3.

<sup>3</sup> Id. at 4.

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Second Report and Order listed 14 behavioral and structural issues on which the proponents of regulation were expected to marshal their arguments over the two-year period in order to meet their heavy burden of making a case for continued regulation.<sup>4</sup> That list faithfully appeared as the centerpiece of the Notice of Proposed Rulemaking (“NPRM”) in the current proceeding<sup>5</sup>, and the Coalition can claim no surprises.

As for the Coalition’s specific plaint that an extension is necessary so that it can respond more fully to one of those 14 issues by “collect[ing] and analyz[ing] information with respect to network negotiation patterns and acquisitions of financial interests for the Fall 1995 season”<sup>6</sup>, ABC and NBC have already announced their schedules for the 1995-96 season, and CBS’s will be announced next Tuesday, May 23. The lengthy process of negotiations relating to the network distribution and “back-end” rights to the programs on those schedules -- which would have revealed any network “negotiating patterns” to the Hollywood community by now -- has for all practical purposes been completed. It is patently insufficient for the Coalition to complain that is “finding it exceedingly difficult to gather the information [it needs] at this time” about that negotiation process and its results because its members are just too busy.<sup>7</sup> The Coalition simply hasn’t come close to making the showing necessary to justify its request for more delay in this already

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<sup>4</sup> Second Report and Order in MM Docket No. 90-162, 8 FCC Rcd 3282, 3340-41.

<sup>5</sup> NPRM at ¶12.

<sup>6</sup> Motion at 2.

<sup>7</sup> Id. at 3.

extraordinarily protracted proceeding.<sup>8</sup>

It is not sufficient for the Coalition to claim that the grant of its request would not be prejudicial on the basis that it would leave the Commission with “ample time” to meet its deadline of November 10, 1995 for completing its review of the remaining fin/syn rules.<sup>9</sup> CBS will urge in its initial comments that the Commission should accelerate the repeal of the remaining rules, a possibility that was expressly anticipated by the NPRM and a goal that the grant of this extension would jeopardize.

There is no plausible basis for granting this request. It is a transparent delaying tactic which demonstrates, yet again, the determination of the Coalition and its sympathizers to extend the life of the fin/syn rules just as long as possible in order to squeeze the last drop of competitive advantage out of those rules.<sup>10</sup> Its grant would not only make it more difficult for the Commission to accelerate the demise of the remaining rules, but it would also, in our view, certainly be followed by other delaying tactics aimed at extending the November 10 deadline. Whether or not this suspicion proves justified,

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<sup>8</sup> “It is the policy of the Commission that extensions of time shall not be routinely granted.” 47 CFR §1.46.


<sup>9</sup> Motion at 4.

<sup>10</sup> Tribune Broadcasting Company (an active program syndicator with a stake in the new Warner Brothers network) and INTV (whose interest in delaying regulatory relief to networks and their affiliates is well-known) have supported the Motion.


the Commssion should deny the Coalition's extension request on its merits and resolve to complete this proceeding as expeditiously as possible.

Respectfully submitted,

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May 19, 1995

## CERTIFICATE OF SERVICE

I, Mark W. Johnson, do hereby certify that true copies of the foregoing  
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the following individuals on this 19th day of May, 1995:

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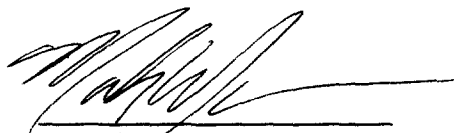
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